PUBLIC VERSION

Before the Federal Communications Commission Washington, DC 20554

In the Matter of)
) Docket No. 18-73
CenturyLink Communications, LLC and) File No. EB-18-MD-002
Level 3 Communications, LLC,)
)
Complainants,)
)
v.)
)
Birch Communications, Inc.,)
)
Defendant.	

JOINT STATEMENT AND SECOND STIPULATION OF FACTS

This Joint Statement and Second Stipulation of Facts is respectfully submitted by CenturyLink Communications, LLC ("CenturyLink"); Level 3 Communications, LLC ("Level 3"); and Birch Communications, LLC ("Birch") (collectively, the "Parties") in accordance with the Federal Communications Commission's Letter Ruling dated May 9, 2018, as amended May 17, 2018.

- 1. The Parties confirm that the presubscribed interexchange carrier charge ("PICC") assessed by Birch on CenturyLink and Level 3 was billed only in the BellSouth territory during the relevant time period.
- 2. As shown in Attachment 1 hereto, on a nationwide basis CenturyLink paid Birch [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] from Birch's interstate access tariff in non-PICC charges billed from February 2015 through January 2018.
- 3. As shown in Attachment 2 hereto, in the BellSouth region CenturyLink paid Birch [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] from Birch's interstate access tariff in non-PICC charges billed from February 2015 through January 2018.
- 4. As shown in Attachment 3 hereto, on a nationwide basis Level 3 paid Birch [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] from Birch's interstate access tariff in non-PICC charges billed from February 2016 through February 2018.

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- 5. As shown in Attachment 4 hereto, in the BellSouth region Level 3 paid Birch [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] from Birch's interstate access tariff in non-PICC charges billed from February 2016 through February 2018.
- 6. Putting aside the question of whether pre-judgment interest should be awarded or which interest rate should apply, the Parties agree that the correct methodology for calculating any pre-judgment interest in this proceeding should be based on daily compounded interest starting from the due date of the first invoice containing disputed, paid charges (*i.e.*, March 10, 2015 for CenturyLink and March 9, 2016 for Level 3) and thereupon accruing daily up to and including today.
- 7. CenturyLink and Level 3 submitted modified interest tables in their Reply in support of their Formal Complaint. To the extent the FCC finds for CenturyLink and Level 3 in this Formal Complaint, the Parties refer the FCC to the modified interest calculations for PICC as set forth in the CenturyLink/Level 3 Reply, and to the attachments to this Joint Statement for interest calculations for non-PICC related charges.
- 8. The Parties report on settlement prospects that, on April 30, 2018, Birch submitted another settlement offer to CenturyLink and Level 3. CenturyLink and Level 3 continue to evaluate Birch's offer, and anticipate responding this week.

Cl. 1. W. C.

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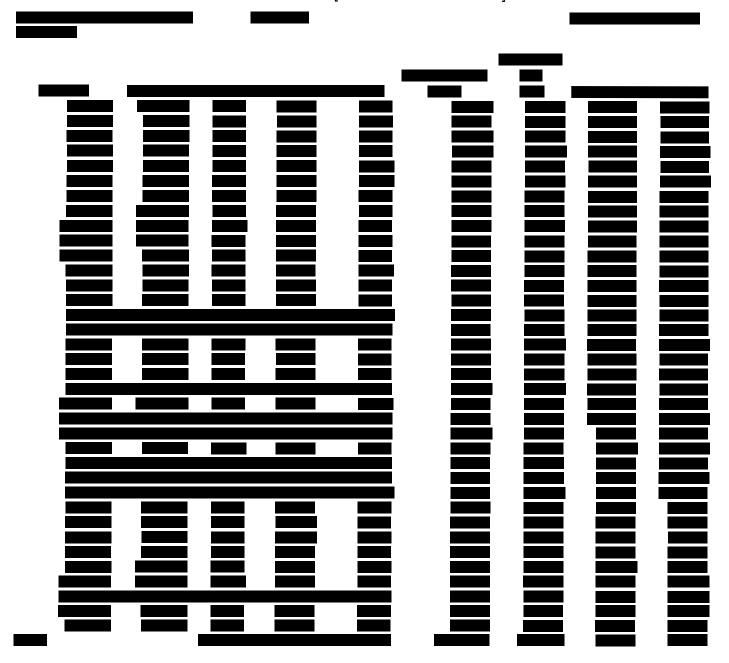
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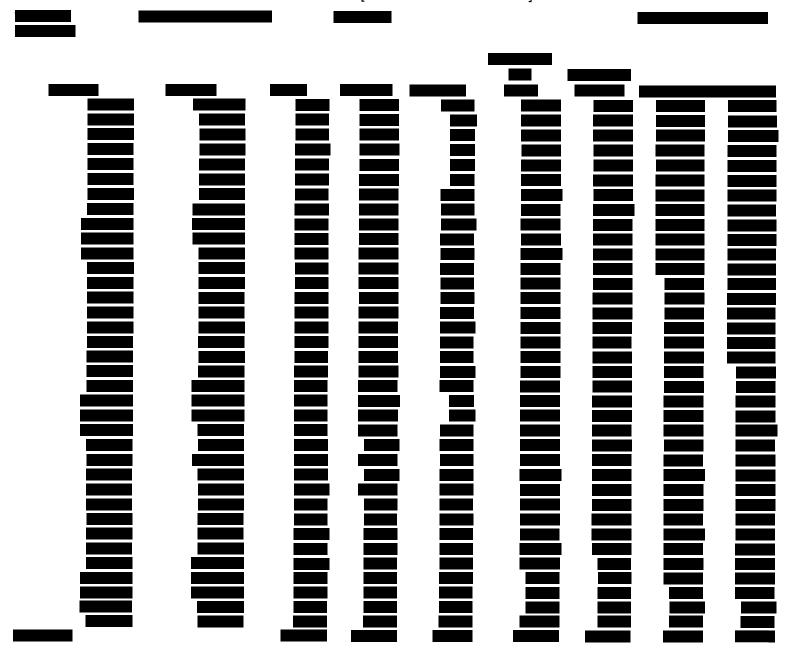
Attorneys for Defendant Birch Communications, LLC

Dated: May 21, 2018

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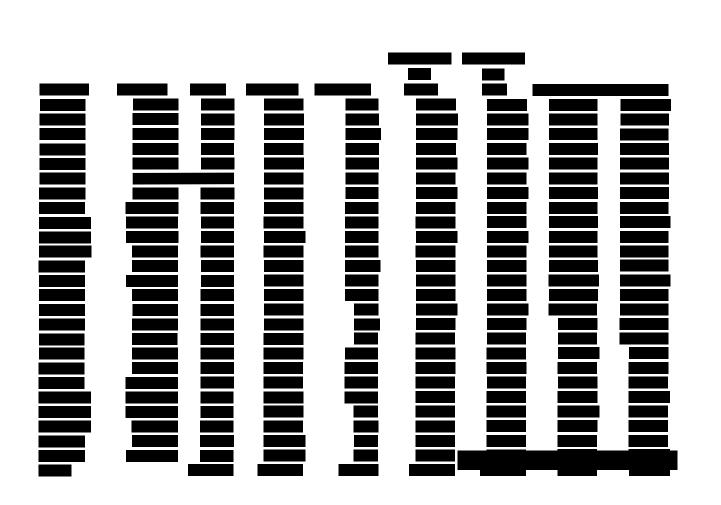
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